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10 Attorneys for Plaintiff  
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20 UNITED STATES DISTRICT COURT  
 21 SOUTHERN DISTRICT OF CALIFORNIA

20 FRED JONES,

21 PLAINTIFF,

22 v.

23 BENJAMIN MICHAEL &  
 24 ASSOCIATES,

25 DEFENDANT.

26 Case No.: **06 CV 2079 W**

27 WMC

28 **VERIFIED COMPLAINT FOR DAMAGES**

29 **JURY TRIAL DEMANDED**

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1 2. The California legislature has determined that the banking and credit system  
2 and grantors of credit to consumers are dependent upon the collection of just  
3 and owing debts and that unfair or deceptive collection practices undermine  
4 the public confidence that is essential to the continued functioning of the  
5 banking and credit system and sound extensions of credit to consumers. The  
6 Legislature has further determined that there is a need to ensure that debt  
7 collectors exercise this responsibility with fairness, honesty and due regard for  
8 the debtor's rights and that debt collectors must be prohibited from engaging  
9 in unfair or deceptive acts or practices.<sup>2</sup>

10 3. FRED JONES, ("Plaintiff"), by Plaintiff's attorneys, brings this action to  
11 challenge the actions of BENJAMIN MICHAEL & ASSOCIATES,  
12 ("Defendant"), with regard to attempts by Defendant, a debt collector, to  
13 unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this  
14 conduct caused Plaintiff damages.

15 4. For the purposes of this Verified Complaint for Damages, unless otherwise  
16 indicated, "Defendant" includes all agents, employees, officers, members,  
17 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
18 representatives and insurers of the defendants named in this caption.

19 **JURISDICTION AND VENUE**

20 5. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 15 U.S.C. §  
21 1692k(d), and 28 U.S.C. § 1367 for supplemental state law claims.

22 6. This action arises out of Defendant's violations of the following: the  
23 Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788-  
24 1788.32 (RFDCPA), the Fair Debt Collection Practices Act, 15 U.S.C. §§  
25 1692 et seq.

26 7. Because Defendant does business within the State of California, personal  
27 jurisdiction is established.

28 <sup>2</sup> Cal. Civ. Code §§ 1788.1 (a)-(b)

1 8. Venue is proper pursuant to 28 U.S.C. § 1391.

2 **PARTIES**

3 9. Plaintiff is a natural person who resides in the City of San Diego, County of  
4 San Diego, State of California and is obligated or allegedly obligated to pay a  
5 debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

6 10. Plaintiff is a natural person from whom a debt collector sought to collect a  
7 consumer debt which was due and owing or alleged to be due and owing from  
8 Plaintiff, and is a "debtor" as that term is defined by California Civil Code §  
9 1788.2(h).

10 11. Plaintiff is informed and believes, and thereon alleges, that Defendant is a  
11 company operating from the City of Smithtown, County of Suffolk, State of  
12 New York.

13 12. Plaintiff is informed and believes, and thereon alleges, that Defendant is a  
14 person who uses an instrumentality of interstate commerce or the mails in a  
15 business the principal purpose of which is the collection of debts, or who  
16 regularly collects or attempts to collect, directly or indirectly, debts owed or  
17 due or asserted to be owed or due another and is therefore a "debt collector" as  
18 that term is defined by 15 U.S.C. § 1692a(6).

19 13. Plaintiff is informed and believes, and thereon alleges, that Defendant is not  
20 an attorney or counselor at law and is a person who, in the ordinary course of  
21 business, regularly, on behalf of himself or herself or others, engages in debt  
22 collection as that term is defined by California Civil Code § 1788.2(b), and is  
23 therefore a "debt collector" as that term is defined by California Civil Code §  
24 1788.2(c).

25 14. This case involves money, property or their equivalent, due or owing or  
26 alleged to be due or owing from a natural person by reason of a consumer  
27 credit transaction. As such, this action arises out of a "consumer debt" and  
28 "consumer credit" as those terms are defined by Cal. Civ. Code § 1788.2(f).

## FACTUAL ALLEGATIONS

15. At all times relevant, Plaintiff was an individual residing within the State of California.
16. Plaintiff is informed and believes, and thereon alleges, that at all times relevant Defendant conducted business in the State of California.
17. Sometime before June 9, 2006, Plaintiff allegedly incurred financial obligations to Wells Fargo Investments that were money, property, or their equivalent, which is due or owing, or alleged to be due or owing, from a natural person to another person and were therefore “debt(s)” as that term is defined by California Civil Code §1788.2(d), and a “consumer debt” as that term is defined by California Civil Code §1788.2(f).
18. These financial obligations were primarily for personal, family or household purposes and are therefore “debt(s)” as that term is defined by 15 U.S.C. §1692a(5).
19. Sometime thereafter, but before June 9, 2006, Plaintiff fell behind in the payments allegedly owed on the alleged debt.
20. Plaintiff is informed and believes, and thereon alleges, that subsequently, but before June 9, 2006, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.
21. On or about June 9, 2006, Defendant sent, and Plaintiff received, a dunning letter addressed to Plaintiff’s home and in the name of Defendant. (See Plaintiff’s Exhibit 1).
22. This letter to Plaintiff, sent by Defendant, was a “communication” as that term is defined by 15 U.S.C. § 1692a(2), a “debt collection” as that term is defined by Cal. Civ. Code 1788.2(b), and an “initial communication” consistent with 15 U.S.C. § 1692g(a) and Cal. Civ. Code § 1812.700(b).

11

11

1 23. Defendant, a third party, and a debt collector as defined pursuant to Cal. Civ.  
2 Code § 1788.2(c), failed, in the manner prescribed by Cal. Civ. Code  
3 § 1812.700(b) or Cal. Civ. Code § 1812.701(b), to provide a notice to Plaintiff  
4 as prescribed in Cal. Civ. Code § 1812.700(a). Consequently, pursuant to Cal.  
5 Civ. Code § 1812.702, this omission by Defendant violated the RFDCPA, Cal.  
6 Civ. Code 1788 et seq.

7 24. In this initial communication, Defendant stated that the balance Plaintiff owed  
8 was “\$4,256.94.”

9 25. This amount was not expressly authorized to be collected by the agreements  
10 creating the alleged debt and as a result, the collection of this amount  
11 constitutes an unfair or unconscionable means used in connection with the  
12 collection of the alleged debt. As such, Defendant violated 15 U.S.C. §§1692f  
13 and 1692f(1). Because Defendant violated 15 U.S.C. §§1692f and 1692f(1),  
14 Defendant also violated Cal. Civ. Code § 1788.17.

15 26. Demanding this amount also represents a false, deceptive, or misleading  
16 means used in connection with the collection of the alleged debt. As such,  
17 Defendant violated 15 U.S.C. §§1692, 1692e(2)(A), and 1692e(10). Because  
18 Defendant violated 15 U.S.C. §§1692, 1692e(2)(A), and 1692e(10),  
19 Defendant also violated Cal. Civ. Code §1788.17.

20 27. In this same letter, Defendant stated, “Any check returned for insufficient  
21 funds or account closed will be addressed a processing fee of \$30.00 or  
22 amount not greater than the face value of the check.”

23 28. This statement represented the threat to take an action that cannot legally be  
24 taken or that Defendant did not intend to take, and violated 15 U.S.C. §  
25 1692e(5) and Cal. Civ. Code § 1788.10(f). Because this action violated 15  
26 U.S.C. § 1692e(5), it also violated Cal. Civ. Code 1788.17.

27       //  
28       //

1 29. This statement also represents a false, deceptive, or misleading means used in  
2 connection with the collection of the alleged debt. As such, Defendant  
3 violated 15 U.S.C. §§ 1692e and 1692e(10). Because Defendant violated 15  
4 U.S.C. §§ 1692e and 1692e(10), Defendant also violated Cal. Civ. Code §  
5 1788.17.

6 30. This initial communication to Plaintiff by Defendant included a written notice,  
7 the language of which overshadowed, weakened, and failed to comply with  
8 the notice required by 15 U.S.C. § 1692g(a)(3), and subsequently, Cal. Civ.  
9 Code 1788.17, because it attempted to limit the rights available to Plaintiff in  
10 a manner that creates a contradiction would confuse the least sophisticated  
11 consumer into disregarding his or her rights pursuant to the validation notice  
12 required in 15 U.S.C. § 1692g by stating, "You have thirty (30) days to make  
13 arrangements for payment or further efforts will commence."

14 31. On or about June 7, 2006, Plaintiff contacted Defendant by telephone and  
15 inquired, among other things, about the balance due. Plaintiff explained that  
16 the original alleged debt was for far less than the \$4256.94 Defendant sought  
17 to recover. In response, Defendant stated that the increased debt amount was  
18 on account of "late fees" and "attorney fees."

19 32. This statement constitutes a false, deceptive, or misleading means used in  
20 connection with the collection of the alleged debt. As such, Defendant  
21 violated 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(2)(B), 1692f, 1692f(1), and  
22 Cal. Civ. Code § 1788.13(e). Because Defendant violated 15 U.S.C. §§ 1692e,  
23 1692e(2)(A), 1692e(2)(B), 1692f, and 1692f(1), Defendant also violated Cal.  
24 Civ. Code § 1788.17.

25 33. On or about June 30, 2006, Defendant sent, and Plaintiff received, a letter  
26 demanding payment of the alleged debt. (See Plaintiff's Exhibit 2).

27 34. In this letter, Defendant stated that the balance Plaintiff owed was  
28 "\$4,256.94."

1 35. This amount was not expressly authorized to be collected by the agreements  
2 creating the alleged debt and as a result, the collection of this amount  
3 constitutes an unfair or unconscionable means used in connection with the  
4 collection of the alleged debt. As such, Defendant violated 15 U.S.C. §§1692f  
5 and 1692f(1). Because Defendant violated 15 U.S.C. §§1692f and 1692f(1),  
6 Defendant also violated Cal. Civ. Code § 1788.17.

7 36. Demanding this amount also represents a false, deceptive, or misleading  
8 means used in connection with the collection of the alleged debt. As such,  
9 Defendant violated 15 U.S.C. §§1692, 1692e(2)(A), and 1692e(10). Because  
10 Defendant violated 15 U.S.C. §§1692, 1692e(2)(A), and 1692e(10),  
11 Defendant also violated Cal. Civ. Code §1788.17.

12 37. On or about July 24, 2006, Defendant contacted Plaintiff by telephone and  
13 demanded payment of the alleged debt. During this conversation, Defendant  
14 stated, "If you don't pay this debt, we are going to sue your butt."

15 38. This statement had the natural consequence of harassing, oppressing, or  
16 abusing Plaintiff in connection with the collection of the alleged debt. As  
17 such, Defendant violated 15 U.S.C. §§1692d, 1692d(2), and Cal. Civ. Code §  
18 1788.11(a). Because Defendant violated 15 U.S.C. §§1692d and 1692d(2),  
19 Defendant also violated Cal. Civ. Code § 1788.17.

20 39. This statement also represented the threat to take an action that cannot legally  
21 be taken or that Defendant did not intend to take, and violated 15 U.S.C. §  
22 1692e(5). Because this action violated 15 U.S.C. § 1692e(5), it also violated  
23 Cal. Civ. Code 1788.17.

24 40. This statement also constitutes a false, deceptive, or misleading means used in  
25 connection with the collection of the alleged debt. As such, Defendant  
26 violated 15 U.S.C. §§1692e, 1692e(10), and Cal. Civ. Code § 1788.13(j).  
27 Because Defendant violated 15 U.S.C. §§1692e and 1692e(10), Defendant  
28 also violated Cal. Civ. Code §1788.17.

41. On or about September 25, 2006, Defendant contacted Plaintiff by telephone an demanded payment of the alleged debt.

42. During this conversation, Defendant stated that if Plaintiff failed to pay the alleged debt, that Defendant would bring Plaintiff "into litigation" and that Plaintiff's wages would be garnished.

43. These statements represented the threat to take an action that cannot legally be taken or that Defendant did not intend to take, and violated 15 U.S.C. § 1692e(5). Because this action violated 15 U.S.C. § 1692e(5), it also violated 1692e(5).

44. These statements also represented a false, deceptive, or misleading means used in connection with the collection of the alleged debt. As such, Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(4), 1692e(10), Defendant also violated Cal. Civ. Code § 1788.17.

45. Plaintiff incorporates by reference all of the above paragraphs of this 15 U.S.C. § 1692 ET SEQ.

46. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

21. Complaint as though fully stated herein.

22. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

23. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

24. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

25. //

26. //

27. //

28. //

28 //

27 § 1788.30(b);

26 • an award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code

25 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

24 15 U.S.C. § 1692k(a)(3).

23 • an award of costs of litigation and reasonable attorney's fees, pursuant to  
1692k(a)(2)(A);

22 • an award of statutory damages of \$1,000.00, pursuant to 15 U.S.C. §

21 **FAIR DEBT COLLECTION PRACTICES ACT**

20 **WHEREFORE**, Plaintiff prays that judgment be entered against Defendant for:

19 **PRAYER FOR RELIEF**

18 costs pursuant to Cal. Civ. Code § 1788.30(c) from each Defendant.

17 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and  
damages for a knowing or willful violation in the amount up to \$1,000.00

16 any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory  
damages for a knowing or willful violation in the amount up to \$1,000.00

15 any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory  
damages for a knowing or willful violation in the amount up to \$1,000.00

14 As a result of each and every violation of the FFDCPA, Plaintiff is entitled to  
13 of the FFDCPA.

12 50. The foregoing acts and omissions constitute numerous and multiple violations  
11 of the FFDCPA.

10 Plaintiff incorporates by reference all of the above paragraphs of this  
9 complaint as though fully stated herein.

8 Cal. Civ. Code §§ 1788-1788.32 (FFDCPA)

7 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

6 **COUNT II**

5 each Defendant.

4 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from  
3 an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and,  
2 any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in  
1 As a result of each and every violation of the FDCPA, Plaintiff is entitled to

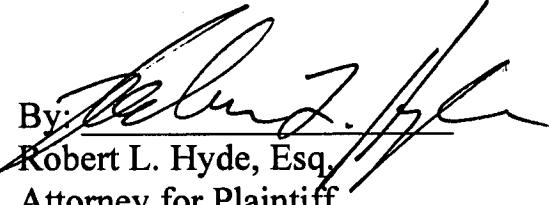
1       • an award of costs of litigation and reasonable attorney's fees, pursuant to  
2                    Cal. Civ. Code § 1788.30(c).

3                    **TRIAL BY JURY**

4       51. Pursuant to the seventh amendment to the Constitution of the United States of  
5                    America, Plaintiff is entitled to, and demands, a trial by jury.

6  
7       Dated: 9/25/06

8  
9                    Respectfully submitted,  
10                    **HYDE & SWIGART**

11                    By:   
12                    Robert L. Hyde, Esq.  
13                    Attorney for Plaintiff

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**Accept and Verification of Complaint  
by Fred Jones**

I, Fred Jones, upon my oath, declare and say as follows:

- (1) I am the Plaintiff in this civil proceeding, Jones v. Benjamin Michael & Associates
- (2) I have read the Civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information, and belief formed after reasonable inquiry.
- (3) I believe that this Civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for an extension, modification, or reversal of existing law.
- (4) I believe that this Civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
- (5) I have filed this Civil Complaint in good faith and solely for the purposes set forth.

I declare the foregoing to be true and correct under penalty of perjury under the laws of the State of California.

fred w. Jones  
Fred Jones

09-21-06

Date Signed

SÖLES

Case 3:06-cv-02079-W-WMC Document 1 Filed 09/26/06 Page 12 of 15

PO Box 609  
Smithtown NY 11787-0609  
RETURN SERVICE REQUESTED

## **Benjamin Michael & Associates**

PO Box 609 ◆ Smithtown NY 11787-0609

Phone (631) 234-5020 • Fax (631) 234-3487

ORIGINAL AMT. INVESTMENT

Date	Account #
6/9/06	343773-9

174364 5685 343773-9-RE1

Fred Jones  
PO BOX 16994  
SAN DIEGO CA 92176-6994

RE:	WELLS FARGO INVESTMENTS
Balance:	\$4,256.94

<b>FILL OUT BELOW FOR CREDIT CARD PAYMENTS.</b>					
DISCOVER  VISA  MC 			CHECK CARD USING FOR PAYMENT		
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)					
CARDHOLDER NAME <input type="text"/> CARDHOLDER SIGNATURE <input type="text"/>					
EXP. DATE <input type="text"/>					
AMOUNT <input type="text"/>					

\*\*\*Please Detach Upper Portion and Return with Payment\*\*\*

RE: WELLS FARGO INVESTMENTS  
Account No: 343773-9  
Account Balance: \$4,256.94

ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ADDRESSED A PROCESSING FEE OF \$30.00 OR AMOUNT NOT GREATER THAN THE FACE VALUE OF THE CHECK.

Dear Fred Jones:

Please be advised that your account has been assigned to Benjamin Michael & Associates. This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose. You have thirty (30) days to make arrangements for payment or further efforts will commence.

You are directed to address all future correspondence and payments concerning this account to this address:

Benjamin Michael & Associates  
PO Box 609  
Smithtown NY 11787-0609

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that you dispute the validity of this debt or any portion thereof, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Sincerely,

Michael Hess

Benjamin Michael & Associates

ICOBEMIOIRE

Craig invested  
10,000 + \$1000

Benjamin Michael & Associates • PO Box 609 • Smithtown NY 11787-0609 • (631) 234-5020 • Fax (631) 234-3487



PO Box 609  
Smithtown NY 11787-0609  
RETURN SERVICE REQUESTED

## Benjamin Michael & Associates

PO Box 609 ♦ Smithtown NY 11787-0609

Phone (631) 234-5020 ♦ Fax (631) 234-3487

Date	Account #
6/30/06	343773-9

508172 180 343773-9-RE2

Fred Jones  
PO BOX 16994  
SAN DIEGO CA 92176-6994

RE:	WELLS FARGO INVESTMENTS
Balance:	\$4,256.94

FILL OUT BELOW FOR CREDIT CARD PAYMENTS.																											
DISCOVER	<input type="checkbox"/>		VISA	<input type="checkbox"/>																							
MC	<input type="checkbox"/>		CHECK CARD USING FOR PAYMENT																								
<table border="0"> <tr> <td colspan="3">CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)</td> <td>EXP. DATE</td> </tr> <tr> <td colspan="3"></td> <td>/</td> </tr> <tr> <td colspan="3">CARDHOLDER NAME</td> <td>AMOUNT</td> </tr> <tr> <td colspan="3"></td> <td>\$ _____</td> </tr> <tr> <td colspan="6">CARDHOLDER SIGNATURE</td> </tr> </table>						CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)			EXP. DATE				/	CARDHOLDER NAME			AMOUNT				\$ _____	CARDHOLDER SIGNATURE					
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)			EXP. DATE																								
			/																								
CARDHOLDER NAME			AMOUNT																								
			\$ _____																								
CARDHOLDER SIGNATURE																											

\*\*\*Please Detach Upper Portion and Return with Payment\*\*\*

RE: WELLS FARGO INVESTMENTS  
Account No: 343773-9  
Account Balance: \$4,256.94

ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ADDRESSED A PROCESSING FEE OF \$30.00 OR AMOUNT NOT GREATER THAN THE FACE VALUE OF THE CHECK.

Dear Fred Jones:

We have not received a satisfactory response from our first letter or efforts; therefore, the account listed above has been referred to our office. Partial payment is not acceptable. The balance must be received by our office within ten days to avoid further action.

Should it become necessary to file suit against you, there will be no other notice. If a court judgment is obtained, you may be obligated to pay considerably more money for court costs, attorney fees, and any other remedies the court may grant. You may mail your check or money order to the above address or if paying by MasterCard or VISA call the number listed above or fill out the credit card form and mail in the top portion with your payment.

To insure proper credit, please return the top portion of this letter with your payment in full.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Sincerely,

Michael Hess

Benjamin Michael & Associates

## 1. COBEMIGURE?

**PLAINTIFF'S EXHIBIT:**

2

**HYDE & SWIGART**  
**(619) 233-7770**

JS44

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

## I (a) PLAINTIFFS

Fred Jones

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

San Diego

## DEFENDANTS

Benjamin Michael &amp; Associates

Suffolk, NY

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert L. Hyde  
411 Camino Del Rio South  
Suite 301  
San Diego, CA 92108

## ATTORNEYS (IF KNOWN)

Unknown

'06 CV 2079 W

WMc

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

1 U.S. Government Plaintiff  3 Federal Question  
(U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT  
(For Diversity Cases Only))

Citizen of This State	PT	DEF	PT	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	PT	DEF	PT	DEF
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	PT	DEF	PT	DEF
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code 1788 et seq

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 425 Copyrights	<input type="checkbox"/> 430 Patents	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 430 Patents	<input type="checkbox"/> 440 Trademarks	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 440 Trademarks	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 453 Death Penalty	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 480 Other	<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 490 Other	<input type="checkbox"/> 890 Other Statutory Actions
		<input type="checkbox"/> 555 Prisoner Conditions		
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation	
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prisoner Conditions	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
			<input type="checkbox"/> 872 Black Lung (923)	
			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
			<input type="checkbox"/> 864 SSID Title XVI	
			<input type="checkbox"/> 865 RSI (405(e))	
			<input type="checkbox"/> 875 Customer Challenge 12 USC	
			<input type="checkbox"/> 891 Agricultural Acts	
			<input type="checkbox"/> 892 Economic Stabilization Act	
			<input type="checkbox"/> 893 Environmental Matters	
			<input type="checkbox"/> 894 Energy Allocation Act	
			<input type="checkbox"/> 895 Freedom of Information Act	
			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
			<input type="checkbox"/> 950 Constitutionality of State	
			<input type="checkbox"/> 890 Other Statutory Actions	

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

1 Original Proceeding  2 Removal from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

50000

Check YES only if demanded in complaint:

JURY DEMAND:  YES  NO

## VIII. RELATED CASE(S) IF ANY (See Instructions):

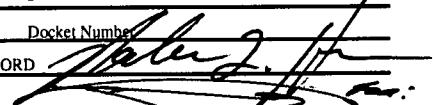
JUDGE

Docket Number

DATE 9/22/06

SIGNATURE OF ATTORNEY OF RECORD

#12989 \$300 Kd 9/26/06  
::ODMA/PC/DOCSWORD/PERFECT\228\61 January 24, 2000 (3:10pm)



ORIGINAL

UNITED STATES  
DISTRICT COURT  
Southern District of California  
San Diego Division

# 129819 - 03  
September 26, 2006

Code	Case #	Qty	Amount
CV086700	3-06-CV-2079	1	60.00 CC
Judge	- WHELAK		
2510000		1	190.00 CC
CV0864000		1	100.00 CC
<b>Total -&gt;</b>			<b>350.00</b>

FROM: CIVIL FILING  
JONES V. MICHAEL & ASSOC.  
AMEX AUTH#569348  
ID